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REMARKS

With entry of the instant amendment, claims 5, 7, 11, 12 – 15, 20 – 27, 37 – 40, 49, 51 – 55 and 57 – 67 are pending. Claims 5, 11, 21, 22, 23, 36 and 52 have been amended. Claims 57 – 67 are new. Claims 1 – 4, 6, 8 – 10, 16 – 19, 28 – 35, 41, 48, 50, 54 and 56 have been canceled without prejudice, and Applicants reserve the right to file further continuation and/or divisional applications on the subject matter of any canceled claim. Applicants assert the amendment does not introduce new matter.

Claims 5, 11, 36 and 52 are independent claims, and each claim has been amended to define the polypeptide having 2,5-diketo-D-gluconic acid permease activity as comprising an amino acid sequence having at least 95% sequence identity to SEQ ID NO: 12.

Claim 7 is dependent on claim 5; claims 12 – 15, 20 – 27 and 49 depend from claim 11; claims 37 – 40, 51, 57 and 58 depend from claim 36, and claims 53, 55 and 59 – 67 depend from claim 52.

The Examiner has rejected claims 5, 6, 11 – 16, 20 – 27, 36 – 40, 50, 52 – 54 and 56 and has objected to claims 7, 51 and 55 as being dependent upon a rejected base claim.

Rejection under 35 U.S.C. §112, 2nd paragraph:

The Examiner has rejected claims 5, 11, 21 and 56 as being indefinite.

The Examiner has stated that the recitation of "2,5-diketo-gluconate" in claims 5 and 11 is incorrect. Both claims have been amended to recite "2,5-diketo-D-gluconate acid" as supported at page 1, line 18 and page 2, lines 15 - 16 of the specification. In addition, the recitation of "2,5-DKG activity" in claim 21 has been changed to "2,5-DKG permease activity" and support is found, for example at page 5, lines 15 – 26 of the specification. Claim 56 has been canceled.

Based on the amendment to the claims, Applicants assert the rejection under 35 U.S.C. §112, 2nd paragraph is rendered moot.

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Rejection under 35 U.S.C. §112, 1st paragraph:

The Examiner has rejected claims 5 - 6, 11 - 16, 20 - 27, 36 - 40, 49 - 50, 52 - 54 and 56 as failing to comply with the enablement requirement of section 112. Independent claims 5, 11, 36 and 52 have been amended to recite a polynucleotide encoding a polypeptide having 2,5-DKG permease activity and having at least 95% sequence identity to the sequence of SEQ ID NO: 12. Claim 56 has been canceled.

Based on the claim amendments, Applicants assert the rejection under 35 U.S.C. §112, 1st paragraph is rendered moot and respectfully request withdrawal of said rejection.

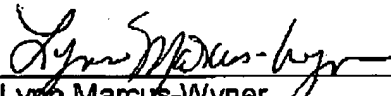
Rejection under 35 U.S.C. §102:

The Examiner has rejected claim 56 under 35 U.S.C. §102(e) as being anticipated by either Hoch et al. (A), Goldman et al. (B) or Mahairas et al. (U). The Examiner states each of the instant references teach 20 consecutive nucleotides of SEQ ID NO: 11. Claim 56 has been canceled.

Applicants assert claims 5, 7, 11, 12 - 15, 20 - 27, 37 - 40, 49, 51 - 55 and 57 - 67 are in condition for allowance, and allowance of said application is kindly requested.

Respectfully submitted,

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Lynn Marcus-Wyner
Attorney for Applicants
Registration No. 34,869

Genencor International, Inc.
925 Page Mill Road
Palo Alto, CA 94304
Phone (650) 846-7620